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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,769	03/09/2006	Makoto Numakawa	07A3825PCT	3001
7590 Quinn Emanuel Urquhart Oliver & Hedges, LLP Koda/Androlia 10th Floor 865 S. Figueroa Street Los Angeles, CA 90007			EXAMINER EIDE, HEIDI MARIE	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 12/31/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,769

Applicant(s)

NUMAKAWA ET AL.

Examiner

HEIDI M. EIDE

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 15 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings were received on September 15, 2008. These drawings are accepted.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 12, the applicant positively claims limitations directed at the handpiece, however, previously only claims the maintenance apparatus for the handpiece. Therefore the applicant is improperly claiming the combination of the maintenance apparatus and the handpiece.

Claim 9 recites the limitation "the nozzle" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitations "the first supply" in 3 and "the second supply" in line 5. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown 5,520,882. Brown teaches a maintenance apparatus 30 for a medical handpiece 10 with a chucking structure for detachably chucking a holding rotary tool along an axis and a bearing for rotatably supporting the chucking structure along the axis (col. 3, ll. 20-23, col. 5, ll. 13-17) comprising a maintenance fluid supply nozzle fluidly connected to a second fluid supply, the design of the nozzle is capable of being detachable connected in the chucking structure in place of the rotary tool so that the maintenance fluid is fed through the nozzle into the chucking structure as illustrated in fig. 4. Brown does not specifically teach the device functioning as claimed, however, the nozzle connected to the fluid supply 30 is capable of being detachable connected to the chucking structure therefore the claimed limitations are met. Brown further teaches a first fluid supply 20 for feeding the maintenance fluid to the bearing of the handpiece as illustrated in fig. 2 (see abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown 5,520,882 as applied to claims 9-10 above, and further in view of De Rocchis et al. 4,990,087 (De Rocchis). Brown teaches the invention as discussed above, however,

does not teach a connector which is so designed that the handpiece is detachably connected to the connector, the connector having a feeding passage of the first supply for feeding the maintenance fluid through the first feeding passage to the bearing of the handpiece and a feeding passage of the second supply for feeding the maintenance fluid through the maintenance fluid through the nozzle to the chucking structure and wherein the connector has a recycling passage and the handpiece has a feeding passage and a recycling passage wherein when the handpiece is connected to the connector, the feeding passages of the connector and the handpiece are connected to each other and the recycling passages of the connector and the handpiece are connected to each other so that the maintenance fluid is fed through the feeding passages of the connector and the handpiece to the bearing of the handpiece and then collected through the recycling passages of the connector and the handpiece and wherein the nozzle has a hold for injecting the maintenance fluid in the form of mist. De Rocchis teaches a connector which is so designed that the handpiece is detachably connected to the connector, the connector having a feeding passage of the first supply for feeding the maintenance fluid through the first feeding passage to the bearing of the handpiece and a feeding passage of the second supply capable of feeding the maintenance fluid through the maintenance fluid through the nozzle to the chucking structure as illustrated in figs. 3B and 5 (col. 7, ll. 5-15) and wherein the connector has a recycling passage and the handpiece has a feeding passage 22 and a recycling passage 24 wherein when the handpiece is connected to the connector, the feeding passages of the connector and the handpiece are connected to each other and the

recycling passages of the connector and the handpiece are connected to each other so that the maintenance fluid is fed through the feeding passages of the connector and the handpiece to the bearing of the handpiece and then collected through the recycling passages of the connector and the handpiece (col. 5, ll. 38-46, col. 7, ll. 26-37) and wherein the maintenance fluid in the form of mist (col. 3, ll. 38-41). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Brown in view of De Rocchis in order to ensure all the maintenance fluid is removed for the handpiece and have more control over the maintenance fluid to ensure maximum results.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed September 15, 2008 have been fully considered but they are not persuasive. The applicant merely argues that Brown functions different than the claimed invention, such that, the invention taught by Brown does not provide sufficient maintenance fluid to the central chucking structure to wash out the foreign matter, however, applicant does not claim this and Brown teaches the claimed limitations, therefore, the applicant's arguments are not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEIDI M. EIDE whose telephone number is (571)270-3081. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Heidi Eide
Examiner
Art Unit 3732

/John J Wilson/
Primary Examiner
Art Unit 3732

/Heidi M Eide/
Examiner, Art Unit 3732

12/29/2008